

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

5.840 ACRES OF LAND, MORE OR
LESS SITUATE IN STARR COUNTY,
STATE OF TEXAS; UNKNOWN HEIRS
OF PEDRO GARZA, *ET AL.*,

Defendants.

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CASE NO. 7:20-CV-009

JOINT OPPOSED MOTION TO CLOSE CASE

Plaintiff, United States of America (hereinafter “United States”) and Defendants Leonel Romeo Alvarez, Nayda Alvarez, and Yvette Gaytan (hereinafter “Defendants”) hereby file this Joint Opposed Motion to Close Case requesting that this case be closed on the Court’s docket since just compensation has been determined and disbursed and there are no further issues in this case, and in support hereof state the following:

1. The United States commenced this action on January 15, 2020, by filing a Declaration of Taking seeking to acquire a temporary (12-month) right of entry easement identified as Tract RGV-RGC-5035.¹

¹ Dkt. No. 2, Sch. E.

2. On January 28, 2020, the United States deposited \$100.00 in the registry of the Court as estimated just compensation.² Upon deposit of the estimated just compensation, title to Tract RGV-RGC-5035 vested in the United States by operation of law.³

3. On June 12, 2020 Defendants filed their Brief for Just and Adequate Compensation⁴ and on June 17, 2020 the United States filed its own Brief on Just Compensation.⁵

4. On August 18, 2020, the Court issued an Order for Possession for a 6-month easement, rather than the 12-month easement sought by the United States.⁶

5. The United States took possession of the 6-month easement, which has now expired.

6. On May 17, 2021, the United States filed an Opposed Motion to Determine Just Compensation⁷ based on the parties' previously filed briefs on just compensation.

7. On July 22, 2021, the Court issued an Order Determining Just Compensation⁸ wherein the Court found \$100.00 to be just compensation for the easement granted in this case and ordered the Clerk of Court to disburse the sum of \$100.00 dollars among all of the named defendants.

8. Because the issue of just compensation has been resolved, there are no further issues in this case. The United States and Defendants therefore respectfully request that the Court enter an order closing this case on the Court's docket.

² Dkt. No. 6.

³ Upon the filing of the Declaration of Taking and depositing the estimated compensation in the Registry of the Court, the following events occur by operation of law: "(1) title to the estate or interest specified in the declaration vests in the Government; (2) the land is condemned and taken for the use of the Government; and (3) the right to just compensation for the land vests in the persons entitled to the compensation." 40 U.S.C. § 3114(b); *see E. Tennessee Nat. Gas. Co. v. Sage*, 361 F.3d 808, 825 (4th Cir. 2004) (in a Declaration of Taking Act case, "[t]itle and the right to possession vest in the government immediately upon the filing of a declaration and the requisite deposit.").

⁴ Dkt. No. 35.

⁵ Dkt. No. 38.

⁶ Dkt. No. 48.

⁷ Dkt. No. 64.

⁸ Dkt. No. 66.

CERTIFICATE OF CONFERENCE

The only other Defendants still in this case are *pro se* Defendants Juan R. Cruz and the Unknown Heirs of Pedro Garza, and the United States has been unable to locate and contact those unknown *pro se* Defendants. This motion is therefore considered opposed due to the United States inability to contact all Defendants.

Respectfully submitted,

JENNIFER B. LOWERY

Acting United States Attorney
Southern District of Texas

By: *s/ Roland D. Ramos*

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CERTIFICATE OF SERVICE

I, Roland D. Ramos, Assistant United States Attorney for the Southern District of Texas, hereby certify that on August 6, 2021, a copy of the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure.

By: *s/ Roland D. Ramos*
ROLAND D. RAMOS
Assistant United States Attorney